

HOUSE BILL 2506

By Byrd

AN ACT to amend Tennessee Code Annotated, Title 67,
Chapter 6, relative to a rural sales tax holiday.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Eligible property" means any property not excluded from the Rural Sales Tax Holiday by subdivision (c)(3); and

(2) "Rural county" means any county with a population of fifty thousand (50,000) or less according to the 2010 federal census or any subsequent federal census.

(b) The exemption provided by this section shall be known as the "Rural Sales Tax Holiday".

(c)

(1) All tangible personal property sold within a rural county between 12:01 a.m. and 11:59 p.m. on the first Saturday following Thanksgiving Day is exempt from the state sales and use tax imposed by part 2 of this chapter if the sales price is one thousand five hundred dollars (\$1,500) or less per item.

(2) The exemption in this section applies only to in-person sales. It does not apply to Internet, telephone, or other transactions that are not made in person.

(3) The exemption provided by this section does not apply to the following:

(A) Any item for use in a trade or business; or

(B) The lease or rental of any item.

(4) This section does not affect local sales and use tax imposed in accordance with part 7 of this chapter.

(d) Each retailer making exempt sales under this section shall report the amount of such sales to the commissioner on the retailer's sales and use tax returns.

(e) The exemption provided in this section shall be subject to the following provisions:

(1) A sale of property under a layaway sale qualifies for exemption, if:

(A) Final payment on a layaway order is made by, and the property is given to, the purchaser during the exemption period; or

(B) The purchaser selects the property and the retailer accepts the order for the item during the exemption period, for immediate delivery upon full payment, even if delivery is made after the exemption period;

(2) A discount by the seller reduces the sales price of the property and the discounted sales price determines whether the sales price is within a Rural Sales Tax Holiday price threshold. A coupon that reduces the sales price is treated as a discount if the seller is not reimbursed for the coupon amount by a third party. If a discount applies to the total amount paid by a purchaser, rather than to the sales price of a particular item, the seller shall allocate the discount based on the total sales price of the taxable property compared to the total sales price of all property sold in that same transaction;

(3) Articles that are normally sold as a single unit must continue to be sold in that manner. Such articles cannot be priced separately and sold as individual items in order to obtain the exemption. For example, each shoe of a pair of shoes cannot be sold separately so that the sales price of each shoe is within a Rural Sales Tax Holiday price threshold;

(4) A rain check allows a customer to purchase an item at a certain price at a later time, because the particular item was out of stock. Property that customers purchase during the exemption period with use of a rain check shall qualify for the exemption, regardless of when the rain check was issued. Issuance of a rain check during the exemption period shall not qualify property for the exemption if the property is actually purchased after the exemption period;

(5) The procedure for an exchange regarding a Rural Sales Tax Holiday is as follows:

(A) If a customer purchases an item of property during the exemption period, but later exchanges the item for a similar item, even if a different size, different color, or other feature, no additional tax is due, even if the exchange is made after the exemption period;

(B) If a customer purchases an item of property during the exemption period, but after the exemption period has ended the customer returns the item and receives credit on the purchase of a different item, the appropriate sales tax is due on the sale of the newly purchased item; and

(C) If a customer purchases an item of property before the exemption period, but during the exemption period the customer returns the item and receives credit on the purchase of a different item of property, no sales tax is due on the sale of the new item, if the new item is purchased during the exemption period;

(6) Delivery charges, including shipping, handling, and service charges, are part of the sales price of property. For the purpose of determining a Rural Sales Tax Holiday price threshold, if all the property in a shipment qualifies as

eligible property and the sales price for each item in the shipment is within the Rural Sales Tax Holiday price threshold, then the seller does not have to allocate the delivery, handling, or service charge to determine if the price threshold is exceeded. The shipment shall be considered a sale of eligible products. If the shipment includes eligible property and taxable property, including an eligible item with a sales price in excess of the price threshold, the seller shall allocate the delivery charge by using:

(A) A percentage based on the total sales prices of each item in the shipment; or

(B) A percentage based on the total weight of each item in the shipment;

(7) For the purpose of a Rural Sales Tax Holiday, property qualifies for exemption, if:

(A) The item is both delivered to and paid for by the customer during the exemption period; or

(B) The customer orders and pays for the item and the seller accepts the order during the exemption period for immediate shipment, even if delivery is made after the exemption period. The seller accepts an order when the seller has taken action to fill the order for immediate shipment. Actions to fill an order include placement of an "in date" stamp on a mail order or assignment of an "order number" to a telephone order. An order is for immediate shipment when the customer does not request delayed shipment. An order is for immediate shipment, notwithstanding that the shipment may be delayed because of a backlog of orders, or because stock is currently unavailable to, or on back order by, the seller;

(8) For a sixty-day period immediately after the Rural Sales Tax Holiday exemption period, when a customer returns an item that would qualify for the exemption, no credit for or refund of sales tax shall be given, unless the customer provides a receipt or invoice that shows tax was paid, or the seller has sufficient documentation to show that tax was paid on the specific item. This sixty-day period is set solely for the purpose of designating a time period during which the customer must provide documentation that shows that sales tax was paid on returned merchandise. The sixty-day period is not intended to change a seller's policy on the time period during which the seller will accept returns; and

(9) The time zone of the seller's location determines the authorized time period for a Rural Sales Tax Holiday.

SECTION 2. This act shall take effect July 1, 2016, the public welfare requiring it.